

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

308I0618

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

**HB 1125** - 02/21/2003

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Representatives Peterson (Bill) and Olson (Mel) and Senators Olson (Ed), Knudson, and Schoenbeck

1 FOR AN ACT ENTITLED, An Act to revise the distribution of certain revenues outside the  
2 state aid to education formula.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 13-13 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 The school district outside revenue fund is hereby created in the state treasury, and the  
7 Department of Education and Cultural Affairs shall distribute any money appropriated to the  
8 fund. The moneys deposited in the fund shall be invested by the state investment council pursuant  
9 to chapter 4-5, and all interest and profits derived from such investment shall be retained in the  
10 fund.

11 Section 2. That chapter 13-13 be amended by adding thereto a NEW SECTION to read as  
12 follows:

13 The secretary of the Department of Education and Cultural Affairs shall distribute money in  
14 the school district outside revenue fund among the school districts on the basis provided in



1 section 3 of this Act. The secretary shall pay each school district its share of the money in the  
2 school district outside other revenue fund in nine monthly installments beginning in October of  
3 each year.

4 Section 3. That chapter 13-13 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 The secretary shall determine the amount of all fines deposited in the county outside school  
7 district fund for the previous year in conformity with S.D. Const., Art. VIII, § 3 as of July first.  
8 The amount of all such fines shall be added to the amount deposited in the school district outside  
9 revenue fund as of September first. The secretary shall compute each school district's share of  
10 this total amount based upon the school district's percent of the statewide total average daily  
11 membership as defined in subdivision 13-13-10.1(1) for the previous school year. The secretary  
12 shall then subtract the amount of fines deposited in each county outside school district fund and  
13 then distribute an appropriate amount from the school district outside revenue fund to each  
14 county outside school district fund. The secretary shall distribute the money pursuant to section  
15 2 of this Act.

16 Section 4. That § 13-13-4 be amended to read as follows:

17 13-13-4. The county ~~general outside school district fund to be apportioned pursuant to~~  
18 ~~§ 13-13-5 shall consist of the net proceeds of all~~ is hereby created in the county treasury of each  
19 county. All fines for violation of state laws and any tax so designated in Title 10 funds received  
20 from school district outside revenue fund shall be deposited in the county outside school district  
21 fund. No later than August first of each year, each county treasurer shall submit a report to the  
22 secretary of Education and Cultural Affairs providing the amount of money in the fund.

23 Section 5. That § 13-13-5 be amended to read as follows:

24 13-13-5. The county treasurer shall on or before the fifth day of January and July furnish the

1 county auditor with a statement of all money in the county treasury belonging to the county  
2 ~~general school outside school district fund and~~. The county treasurer shall pay the money, upon  
3 the order of the auditor to the public school districts having land area within the county in  
4 proportion to the average daily membership of children residing in the school districts as certified  
5 by the ~~Division of Education Services and Resources~~ Department of Education and Cultural  
6 Affairs.

7 Section 6. That § 13-13-73.1 be amended to read as follows:

8 13-13-73.1. The Department of Revenue shall ~~exclude~~ include the real property valuation of  
9 manufactured homes, considered as real estate pursuant to § 10-4-2.4, and manufactured homes,  
10 converted to real estate after July 1, 1999, when computing local effort pursuant to  
11 §§ 13-13-10.1 and 13-37-35.1 for the purpose of the state aid to education formula. The county  
12 auditor shall also ~~exclude~~ include such real estate value when computing the tax levy for school  
13 purposes. ~~However, such manufactured homes shall continue to be subject to each tax levy. The~~  
14 Legislature shall make an adjustment in the relationship between statewide local effort as a  
15 percentage of statewide local need pursuant to §§ 13-13-71 to 13-13-72.1, inclusive, to account  
16 for the change of moving manufactured homes from outside the state aid to education formula  
17 to inside the formula. The inclusion of valuation of manufactured homes in the local effort shall  
18 be accomplished without maintaining the relationship required by § 13-13-72.

19 Section 7. That § 10-33-21 be amended to read as follows:

20 10-33-21. All persons, corporations, cooperatives, and associations engaged in furnishing  
21 and providing telephone and exchange service comprising rental and toll service by means of  
22 wired circuits and otherwise and whose annual gross receipts are less than fifty million dollars  
23 shall be taxed on the basis of gross receipts, according to one of the two following schedules.  
24 ~~Whichever schedule provides the lesser percentage of tax shall be applied by the~~ The Department

of Revenue shall apply whichever schedule provides the lesser percentage of tax:

SCHEDULE A

	Percentage of
Average Number of Customers	Tax on
Per Mile of Line (Density)	Gross Revenue
Not more than 1	2
More than 1, but not more than 2	3
More than 2	4

SCHEDULE B

	Percentage of
Gross Annual Revenue	Tax on
	Gross Revenue
Not more than \$ 15,000	2
More than \$15,000, but not more than 20,000	3
More than \$20,000, but not more than 50,000,000	4

~~However, no telephone company operating in this state shall be taxed less than an amount equal to fifty cents per year per telephone serviced. Further, each~~ Each telephone company that was taxed in the five percent tax category for the calendar year 2001 shall pay an amount of tax to ~~each school district~~ the Department of Revenue of not less than the ~~tax received by such school district~~ all the taxes paid by such telephone company pursuant to this chapter in 2002 for the years 2003 and 2004; and each year thereafter, the tax paid shall be as provided in SCHEDULE A or SCHEDULE B of this section.

Section 8. That § 10-33-24 be amended to read as follows:

10-33-24. ~~It shall be the duty of the~~ The secretary of revenue ~~to~~ shall compute and determine the amount of tax to be paid by ~~such~~ each company as provided in § 10-33-21 ~~and he shall on~~

1 ~~or before July first following certify to the county auditor of each county in the state in which~~  
2 ~~such company operates the amount of the tax to be paid in such county on the basis of the gross~~  
3 ~~receipts received by such company from its operations in such county and shall further certify~~  
4 ~~to the county auditor the amount to which each school district shall be entitled in each such~~  
5 ~~county on the basis of the gross receipts received by such company in each school district. The~~  
6 ~~county auditor shall extend such tax on his books and certify the same to the county treasurer~~  
7 and certify the amount to the company by July first.

8 Section 9. That § 10-33-25 be amended to read as follows:

9 10-33-25. The tax levied in § 10-33-21 ~~shall become due and be~~ is due and payable to the  
10 ~~county treasurer of each county in which such company operates and~~ Department of Revenue  
11 ~~as certified by the secretary of revenue on September first of each year following the filing of the~~  
12 ~~report of such gross receipts. The Department of Revenue shall deposit the taxes paid in the~~  
13 school district outside revenue fund.

14 Section 10. That § 10-33-28 be repealed.

15 ~~— 10-33-28. The county treasurer shall allocate and transmit the taxes imposed by § 10-33-21~~  
16 ~~and collected from each such company to the school treasurers of each school district in which~~  
17 ~~such company operates on the basis of the gross receipts received by such company from its~~  
18 ~~operations within each such school district within the county.~~

19 Section 11. That § 10-36-7 be amended to read as follows:

20 10-36-7. The secretary of revenue shall compute ~~and determine~~ the amount of tax to be paid  
21 ~~by such~~ each company as provided in § 10-36-6 ~~and shall on or before July first following certify~~  
22 ~~to the county auditor of each county in the state in which such company operates the amount of~~  
23 ~~the tax to be paid in such county on the basis of the gross receipts received by such company~~  
24 ~~from its operations in such county and shall further certify to the county auditor the amount to~~

1 ~~which each school district shall be entitled in each such county on the basis of the gross receipts~~  
2 ~~received by such company in each school district. The county auditor shall extend such tax on~~  
3 ~~his books and certify the same to the county treasurer~~ and shall certify the amount to the  
4 company by July first.

5 Section 12. That § 10-36-8 be amended to read as follows:

6 10-36-8. The tax levied by § 10-36-6 ~~shall become due and be~~ is due and payable to the  
7 ~~county treasurer of each county in which such company operates and~~ Department of Revenue  
8 as certified by the secretary of revenue on September first of each year following the filing of the  
9 report of ~~such~~ gross receipts. The Department of Revenue shall deposit the taxes paid in the  
10 school district outside fund.

11 Section 13. That § 10-36-10 be repealed.

12 ~~— 10-36-10. The county treasurer shall allocate and transmit the taxes collected from each such~~  
13 ~~company to the school treasurers of each school district in which such company operates on the~~  
14 ~~basis of the gross receipts received by such company from its operations within each such school~~  
15 ~~district within the county.~~

16 Section 14. That § 10-43-77 be amended to read as follows:

17 10-43-77. The county treasurer upon receipt of ~~such funds~~ the share of the tax pursuant to  
18 this chapter shall apportion and distribute the funds between the taxing subdivisions, including  
19 the county but not including the school districts, in the same proportion as the average of  
20 personal property taxes assessed in each taxing subdivision, including the county and the school  
21 districts, for calendar years 1972, 1973, 1974, 1975, and 1976 were distributed as determined  
22 and certified by the secretary of revenue.

23 The county treasurer shall certify to the secretary of revenue the proportion of personal  
24 property taxes assessed that is assigned to the school districts under the provisions of this

1 section. For school districts operating during the years 1972 to 1976, inclusive, that reorganize,  
2 ~~the funds shall be apportioned and distributed~~ county treasurer shall certify to the secretary of  
3 revenue the proportion of personal property taxes assessed that is assigned to such school  
4 districts under the provisions of this section to the successor districts. The proportion assigned  
5 shall be determined in the same manner and proportion as ~~they were distributed~~ prior to  
6 reorganization. The secretary of revenue shall determine the amount that would normally be  
7 apportioned and distributed to the school districts and deposit such amount in the school district  
8 outside revenue fund.

9 Section 15. That § 10-6-22 be amended to read as follows:

10 10-6-22. The director of equalization shall ~~forthwith~~ notify the state's attorney of any ~~such~~  
11 delinquency or offense as described by § 10-6-21 and ~~he~~ the state's attorney shall prosecute ~~such~~  
12 the offender to final judgment and execution, ~~and such fine when.~~ If any fine is collected, the fine  
13 shall be paid into the county treasury for the use of the public schools deposited in the county  
14 outside school district fund.

15 Section 16. That § 23A-27-25 be amended to read as follows:

16 23A-27-25. ~~All~~ The county treasurer shall deposit all fines and pecuniary penalties, other than  
17 forfeitures provided for in § 23A-43-23, costs as provided in §§ 23-3-52, 23A-27-26, and  
18 23A-27-27, and restitution and civil penalties assessed under the state's environmental laws; for  
19 the violation of any state law, ~~when collected, shall be paid into the treasury of the proper~~  
20 ~~county, the net proceeds of which shall be applied and used each year for the benefit of the public~~  
21 ~~schools of this state~~ in the county outside school district fund.

22 Section 17. That § 10-59-1 be amended to read as follows:

23 10-59-1. The provisions of this chapter apply to any taxes or fees or persons subject to taxes  
24 or fees imposed by chapters 10-33, 10-36, 10-39, 10-39A, 10-39B, 10-43, 10-45, 10-45D,

1 10-46, 10-46A, 10-46B, 10-46C, 10-47B, 10-52, 10-52A, 32-3, 32-3A, 32-5, 32-5B, 32-6B,  
2 32-9, 32-10, and 34A-13 and §§ 22-25-48, 49-31-51, 50-4-13 to 50-4-17, inclusive, and the  
3 provisions of chapter 10-45B.

4 Section 18. The first distribution of money pursuant to this Act shall begin in October, 2004.  
5 The secretary shall distribute the money in a manner that each school district shall receive at least  
6 eighty percent of the revenue that such school district would have received without the  
7 implementation the provisions of sections 1 to 5, inclusive, and sections 7 to 17, inclusive, of this  
8 Act. The remaining twenty percent of the money shall be distributed pursuant to sections 1 to  
9 3, inclusive of this Act.

10 The second distribution of money pursuant to this Act shall begin in October, 2005. The  
11 secretary shall distribute the money in a manner that each school district shall receive at least  
12 sixty percent of the revenue that such school district would have received without the  
13 implementation the provisions of sections 1 to 5, inclusive, and sections 7 to 17, inclusive, of this  
14 Act. The remaining forty percent of the money shall be distributed pursuant to sections 1 to 3,  
15 inclusive, of this Act.

16 The third distribution of money pursuant to this Act shall begin in October, 2006. The  
17 secretary shall distribute the money in a manner that each school district shall receive at least  
18 forty percent of the revenue that such school district would have received without the  
19 implementation the provisions of sections 1 to 5, inclusive, and sections 7 to 17, inclusive, of this  
20 Act. The remaining sixty percent of the money shall be distributed pursuant to sections 1 to 3,  
21 inclusive, of this Act.

22 Each distribution thereafter shall be made pursuant to the provisions of this Act.

23 Section 19. This Act is effective on January 1, 2004.